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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,245	06/12/2001	Katrina L. Dewar	2951.03US02	3786

7590 09/27/2005	**EXAMINER**
Brad Pederson, Esq.	DAVIS, GEORGE B

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ART UNIT	PAPER NUMBER
2129	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Office Action Summary	Application No.	Applicant(s)
		09/878,245	DEWAR, KATRINA L.
		Examiner	Art Unit
		George Davis	2129

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 May 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15-17* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claims Numbering

1.   The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 143-145 have been renumbered 15-17 because the preliminary amendments filed May 5, 2005 cancelled claims 1-14 and added new and amended claims 143-145.

Claim Objections

2.   Claims 15 is objected to because of the following informalities:

Claim 15, line 11, after "requirements;" insert - - and - -.

Claim 15, line 16, delete "and"

Claim 16, line 12, after "requirements;" insert - - and - -.

Claim 16, line 16, delete "and"

Claim 17, line 11, after "requirements;" insert -- and - -.

Claim 17, line 15, delete "and"

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the suitably" in line 1.

Claims 16 and 17 recite the limitation "the suitability" in line 1.

There is insufficient antecedent basis for these limitations in the claims.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

First

Claims 15-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ostby et al, U.S. Pat. No. 5,326,270.

Ostby discloses evaluating the task-processing style of an individual by presenting the individual with questions and answers, whether employees meet certain requirements, job performance rating, comparing applicants score to the

one compiled in the memory, predict performances and turnovers, assessment of applicant once they logged on, reviewing applicant performance in a rank order and predict the probability of applicants who has most successful performance.

As per claim 15, Ostby discloses an electronic prediction system for assessing the suitably of job applicants for an employer (column 3, lines 42-52 and column 4, lines 10-18), a plurality of terminals connected to the Internet and accessible by the applicants (column 7, lines 5-11), an applicant screening server connected through the Internet to the terminals, the applicant screening server having a testing computer program and storing test data (column 7, lines 5-11 and column 6, lines 30-39), a website identified by a uniform resource locator indicated in an employer job advertisement, the website configured to present application questions to the applicants at the terminals and to receive applicant responses entered at the terminals in response to presentation of the application questions (column 6, lines 11-13, abstract, lines 4-8 and column 7, lines 5-11), requirements questions eliciting information on whether the applicants meet employment requirements (abstract, last five lines), a set of validated questions validated by correlating job performance ratings of a plurality of hired workers with previous responses given by the workers to the application questions before the workers were hired, the set of validated questions being a short subset of a large assessment, the short subset being selected to serve as a fast job related pre screen (abstract, lines 12-20), a scoring system for automatically scoring the applicant responses in real time, the scoring system comparing applicant responses for requirements questions to employer requirements and being

validated to predict both performance and turnover potential (abstract, lines 12-

20 and column 1, lines 58-67 and column 2, lines 1-4), a scoring database

connected to the applicant screening server (figure 2), an applicant input system

located on the employer's premises and configured to administer an in depth

assessment to an applicant at the employer's premises after the applicant has

come to the employer's premises and logged on (column 1, lines 58-67 and

column 2, lines 1-4 and figure 2) and a viewing system for permitting the

employer to view applicant results from the electronic prediction system and the

applicant's rank order, the applicant results providing information on applicants

who have a high probability of performing successfully find not terminating early

(column 4, lines 26-68).

As per claim 16, Ostby discloses an electronic prediction system for

assessing the suitability of job applicants for an employer (column 3, lines 42-52

and column 4, lines 10-18), a plurality of terminals connected to the Internet and

accessible by the applicants (column 7, lines 5-11), an applicant screening server

connected through the Internet to the terminals, the applicant screening server

having a testing computer program and storing test data (column 7, lines 5-11

and column 6, lines 30-39), an employer job advertisement identifying a uniform

resource locator (column 6, lines 11-13, abstract, lines 4-8 and column 7, lines 5-

11), resource identified by the uniform resource locator, the resource configured

tee present application questions to the applicants at the terminals and to receive

applicant response entered at the terminals in response to presentation of the

application questions (column 6, lines 11-13, abstract, lines 4-8 and column 7,

lines 5-11), requirements questions eliciting information on whether the

applicants meet employment requirements (abstract, last five lines), validated

questions validated by correlating job performance of a plurality of hired workers

with previous responses givers by the workers to the application questions before

the workers were hired (abstract, lines 12-20), a scoring system for automatically

scoring the applicant responses in real time, the scoring system being validated

to predict both performance and turnover potential (abstract, lines 12-20 and

column 1, lines 58-67 and column 2, lines 1-4), a scoring database connected to

the applicant screening server (figure 2), and a viewing system for permitting the

employer to view applicant results from the electronic prediction system and the

applicant's rank order, the applicant results providing information on applicants

who have a high probability of performing successfully and not terminating early

(column 4, lines 26-68).

As per claim 17, Ostby discloses an electronic prediction system for

assessing the suitability of job applicants for an employer (column 3, lines 42-52

and column 4, lines 10-18), a plurality of terminals connected to the Internet and

accessible by the applicants (column 7, lines 5-11), an applicant screening server

connected through the Internet to the terminals, the applicant screening server

having a testing computer program and storing test data (column 7, lines 5-11

and column 6, lines 30-39), a resource identified by a telephone number in an

employer job advertisement, the resource configured to present application

questions to the applicants at the terminals and to receive applicant responses

entered at the terminals in response to presentation of the application questions

(column 6, lines 11-13, abstract, lines 4-8 and column 7, lines 5-11),

requirements questions eliciting information on whether the applicants meet

employment requirements (abstract, last five lines), validated questions validated

by correlating job performance of a plurality of hired workers with previous

responses given by the workers to the application questions before the workers

were hired (abstract, lines 12-20), a scoring system for automatically scoring the

applicant response in real time, the scoring system being validated to predict

both performance and turnover potential (abstract, lines 12-20 and column 1,

lines 58-67 and column 2, lines 1-4), a scoring database connected to the

applicant screening server (figure 2) and a viewing system for permitting the

employer to view applicants results from the electronic prediction system and the

applicant's rank order, the applicant results Providing information on applicants

who have a high probability of performing successfully end not terminating early

(column 4, lines 26-68).

Second

Claims 15-17 are rejected under 35 U.S.C. 102(b) as being clearly

anticipated by Bro, U.S. Pat. No. 5,722,418.

Bro discloses a communication between social behavioral of clients

including employees or applicants and a server such as questions and answers,

whether employees meet certain requirements, job performance rating,

comparing applicants score to the one compiled in the memory, predict

performances and turnovers, assessment of applicant once they logged on,

reviewing applicant performance in a rank order and predict the probability of

applicants who has most successful performance.

As per claim 15, Bro discloses an electronic prediction system for

assessing the suitably of job applicants for an employer (column 19, lines 35-43),

a plurality of terminals connected to the Internet and accessible by the applicants

(column 18, lines 8-12), an applicant screening server connected through the

Internet to the terminals, the applicant screening server having a testing

computer program and storing test data (column 18, lines 8-12 and column 8,

lines 22-27, 34 and 35), a website identified by a uniform resource locator

indicated in an employer job advertisement, the website configured to present

application questions to the applicants at the terminals and to receive applicant

responses entered at the terminals in response to presentation of the application

questions (abstract and column 15, lines 14-30), requirements questions eliciting

information on whether the applicants meet employment requirements (abstract

and column 15, lines 14-30), a set of validated questions validated by correlating

job performance ratings of a plurality of hired workers with previous responses

given by the workers to the application questions before the workers were hired,

the set of validated questions being a short subset of a large assessment, the

short subset being selected to serve as a fast job related pre screen (abstract,

column 17, lines 15-25 and column 15, lines 14-30), a scoring system for

automatically scoring the applicant responses in real time, the scoring system

comparing applicant responses for requirements questions to employer

requirements and being validated to predict both performance and turnover

potential (column 59, lines 43-67 and column 60, lines 3-6), a scoring database connected to the applicant screening server (figure 1, devices 12 and 16), an applicant input system located on the employer's premises and configured to administer an in depth assessment to an applicant at the employer's premises after the applicant has come to the employer's premises and logged on (figure 1) and a viewing system for permitting the employer to view applicant results from the electronic prediction system and the applicant's rank order, the applicant results providing information on applicants who have a high probability of performing successfully find not terminating early (column 19, lines 35-43, column 59, lines 43-67 and column 60, lines 3-6).

As per claim 16, Bro discloses an electronic prediction system for assessing the suitability of job applicants for an employer (column 19, lines 35-43), a plurality of terminals connected to the Internet and accessible by the applicants (column 18, lines 8-12), an applicant screening server connected through the Internet to the terminals, the applicant screening server having a testing computer program and storing test data (column 18, lines 8-12 and column 8, lines 22-27, 34 and 35), an employer job advertisement identifying a uniform resource locator (abstract and column 15, lines 14-30), resource identified by the uniform resource locator, the resource configured tee present application questions to the applicants at the terminals and to receive applicant response entered at the terminals in response to presentation of the application questions (abstract and column 15, lines 14-30), requirements questions eliciting information on whether the applicants meet employment requirements (abstract

and column 15, lines 14-30), validated questions validated by correlating job

performance of a plurality of hired workers with previous responses givers by the

workers to the application questions before the workers were hired (abstract,

column 17, lines 15-25 and column 15, lines 14-30), a scoring system for

automatically scoring the applicant responses in real time, the scoring system

being validated to predict both performance and turnover potential (column 59,

lines 43-67 and column 60, lines 3-6), a scoring database connected to the

applicant screening server (figure 1, devices 12 and 16), and a viewing system

for permitting the employer to view applicant results from the electronic prediction

system and the applicant's rank order, the applicant results providing information

on applicants who have a high probability of performing successfully and not

terminating early (column 19, lines 35-43, column 59, lines 43-67 and column 60,

lines 3-6).

As per claim 17, Bro discloses an electronic prediction system for

assessing the suitability of job applicants for an employer (column 19, lines 35-

43), a plurality of terminals connected to the Internet and accessible by the

applicants (column 18, lines 8-12), an applicant screening server connected

through the Internet to the terminals, the applicant screening server having a

testing computer program and storing test data (column 18, lines 8-12 and

column 8, lines 22-27, 34 and 35), a resource identified by a telephone number in

an employer job advertisement, the resource configured to present application

questions to the applicants at the terminals and to receive applicant responses

entered at the terminals in response to presentation of the application questions

(abstract and column 15, lines 14-30), requirements questions eliciting

information on whether the applicants meet employment requirements (abstract

and column 15, lines 14-30), validated questions validated by correlating job

performance of a plurality of hired workers with previous responses given by the

workers to the application questions before the workers were hired (abstract,

column 17, lines 15-25 and column 15, lines 14-30), a scoring system for

automatically scoring the applicant response in real time, the scoring system

being validated to predict both performance and turnover potential (column 59,

lines 43-67 and column 60, lines 3-6), a scoring database connected to the

applicant screening server (figure 1, devices 12 and 16) and a viewing system for

permitting the employer to view applicants results from the electronic prediction

system and the applicant's rank order, the applicant results Providing information

on applicants who have a high probability of performing successfully end not

terminating early (column 19, lines 35-43, column 59, lines 43-67 and column 60,

lines 3-6).

Conclusion

5.   Any inquiry concerning this communication or earlier communications from
the examiner should be directed to George Davis whose telephone number is
(571) 272-3683. The examiner can normally be reached on Monday through
Friday from 10:00 am to 6:30 pm.

        If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, Anthony Knight, can be reached on (571) 272-3687. The
fax phone number for the organization where this application or proceeding is
assigned is (571) 273-3800.

September 25, 2005

GEORGE B. DAVIS
PRIMARY PATENT EXAMINER